

ASSEMBLY BILL

No. 542

Introduced by Assembly Member Allen

February 16, 2011

An act to amend Section 65583.2 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

AB 542, as introduced, Allen. Land use: housing element: regional housing need.

The Planning and Zoning Law requires a city or county to prepare and adopt a comprehensive, long-term general plan, and requires the general plan to include specified, mandatory elements, including a housing element. That law requires the housing element, in turn, to contain, among other items, an assessment of housing needs and an inventory of resources and constraints relevant to the meeting of those needs. That law requires that assessment and inventory, in turn, to contain an inventory of land suitable for residential development.

That law requires a city or county to determine whether each site in the inventory of land suitable for residential development can accommodate some portion of the city's or county's share of the regional housing need by income level, as specified, and the number of housing units that can be accommodated on each site. That law requires specified densities to be deemed appropriate to accommodate housing for lower income households.

This bill would require densities less than those specified to be deemed appropriate to accommodate housing for lower income households, if the site is owned by the city or county planning agency and set aside for affordable housing development, or if the planning agency has

offered to provide subsidies of at least an unspecified amount per unit for affordable housing construction.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 65583.2 of the Government Code is
2 amended to read:
3 65583.2. (a) A city's or county's inventory of land suitable
4 for residential development pursuant to paragraph (3) of
5 subdivision (a) of Section 65583 shall be used to identify sites that
6 can be developed for housing within the planning period and that
7 are sufficient to provide for the jurisdiction's share of the regional
8 housing need for all income levels pursuant to Section 65584. As
9 used in this section, "land suitable for residential development"
10 includes all of the following:
11 (1) Vacant sites zoned for residential use.
12 (2) Vacant sites zoned for nonresidential use that allows
13 residential development.
14 (3) Residentially zoned sites that are capable of being developed
15 at a higher density.
16 (4) Sites zoned for nonresidential use that can be redeveloped
17 for, and as necessary, rezoned for, residential use.
18 (b) The inventory of land shall include all of the following:
19 (1) A listing of properties by parcel number or other unique
20 reference.
21 (2) The size of each property listed pursuant to paragraph (1),
22 and the general plan designation and zoning of each property.
23 (3) For nonvacant sites, a description of the existing use of each
24 property.
25 (4) A general description of any environmental constraints to
26 the development of housing within the jurisdiction, the
27 documentation for which has been made available to the
28 jurisdiction. This information need not be identified on a
29 site-specific basis.
30 (5) A general description of existing or planned water, sewer,
31 and other dry utilities supply, including the availability and access
32 to distribution facilities. This information need not be identified
33 on a site-specific basis.

1 (6) Sites identified as available for housing for above
2 moderate-income households in areas not served by public sewer
3 systems. This information need not be identified on a site-specific
4 basis.

5 (7) A map that shows the location of the sites included in the
6 inventory, such as the land use map from the jurisdiction's general
7 plan for reference purposes only.

8 (c) Based on the information provided in subdivision (b), a city
9 or county shall determine whether each site in the inventory can
10 accommodate some portion of its share of the regional housing
11 need by income level during the planning period, as determined
12 pursuant to Section 65584. The analysis shall determine whether
13 the inventory can provide for a variety of types of housing,
14 including multifamily rental housing, factory-built housing,
15 mobilehomes, housing for agricultural employees, emergency
16 shelters, and transitional housing. The city or county shall
17 determine the number of housing units that can be accommodated
18 on each site as follows:

19 (1) If local law or regulations require the development of a site
20 at a minimum density, the department shall accept the planning
21 agency's calculation of the total housing unit capacity on that site
22 based on the established minimum density. If the city or county
23 does not adopt a law or regulations requiring the development of
24 a site at a minimum density, then it shall demonstrate how the
25 number of units determined for that site pursuant to this subdivision
26 will be accommodated.

27 (2) The number of units calculated pursuant to paragraph (1)
28 shall be adjusted as necessary, based on the land use controls and
29 site improvements requirement identified in paragraph (5) of
30 subdivision (a) of Section 65583.

31 (3) For the number of units calculated to accommodate its share
32 of the regional housing need for lower income households pursuant
33 to paragraph (2), a city or county shall do either of the following:

34 (A) Provide an analysis demonstrating how the adopted densities
35 accommodate this need. The analysis shall include, but is not
36 limited to, factors such as market demand, financial feasibility, or
37 information based on development project experience within a
38 zone or zones that provide housing for lower income households.

39 (B) The following densities shall be deemed appropriate to
40 accommodate housing for lower income households:

1 (i) For incorporated cities within nonmetropolitan counties and
2 for nonmetropolitan counties that have micropolitan areas: sites
3 allowing at least 15 units per acre.

4 (ii) For unincorporated areas in all nonmetropolitan counties
5 not included in clause (i): sites allowing at least 10 units per acre.

6 (iii) For suburban jurisdictions: sites allowing at least 20 units
7 per acre.

8 (iv) For jurisdictions in metropolitan counties: sites allowing
9 at least 30 units per acre.

10 (4) *Densities less than those specified in subparagraph (B) of*
11 *paragraph (3) shall be deemed appropriate to accommodate*
12 *housing for lower income households, if the site is owned by the*
13 *planning agency and set aside for affordable housing development,*
14 *or if the planning agency has offered to provide subsidies of at*
15 *least \$_____ per unit for affordable housing construction.*

16 (d) For purposes of this section, metropolitan counties,
17 nonmetropolitan counties, and nonmetropolitan counties with
18 micropolitan areas are as determined by the United States Census
19 Bureau. Nonmetropolitan counties with micropolitan areas include
20 the following counties: Del Norte, Humboldt, Lake, Mendocino,
21 Nevada, Tehama, and Tuolumne and such other counties as may
22 be determined by the United States Census Bureau to be
23 nonmetropolitan counties with micropolitan areas in the future.

24 (e) A jurisdiction is considered suburban if the jurisdiction does
25 not meet the requirements of clauses (i) and (ii) of subparagraph
26 (B) of paragraph (3) of subdivision (c) and is located in a
27 Metropolitan Statistical Area (MSA) of less than 2,000,000 in
28 population, unless that jurisdiction's population is greater than
29 100,000, in which case it is considered metropolitan. Counties,
30 not including the City and County of San Francisco, will be
31 considered suburban unless they are in a MSA of 2,000,000 or
32 greater in population in which case they are considered
33 metropolitan.

34 (f) A jurisdiction is considered metropolitan if the jurisdiction
35 does not meet the requirements for "suburban area" above and is
36 located in a MSA of 2,000,000 or greater in population, unless
37 that jurisdiction's population is less than 25,000 in which case it
38 is considered suburban.

39 (g) For sites described in paragraph (3) of subdivision (b), the
40 city or county shall specify the additional development potential

for each site within the planning period and shall provide an explanation of the methodology used to determine the development potential. The methodology shall consider factors including the extent to which existing uses may constitute an impediment to additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites.

(h) The program required by subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 shall accommodate 100 percent of the need for housing for very low and low-income households allocated pursuant to Section 65584 for which site capacity has not been identified in the inventory of sites pursuant to paragraph (3) of subdivision (a) on sites that shall be zoned to permit owner-occupied and rental multifamily residential use by right during the planning period. These sites shall be zoned with minimum density and development standards that permit at least 16 units per site at a density of at least 16 units per acre in jurisdictions described in clause (i) of subparagraph (B) of paragraph (3) of subdivision (c) and at least 20 units per acre in jurisdictions described in clauses (iii) and (iv) of subparagraph (B) of paragraph (3) of subdivision (c). At least 50 percent of the very low and low-income housing need shall be accommodated on sites designated for residential use and for which nonresidential uses or mixed-uses are not permitted.

(i) For purposes of this section and Section 65583, the phrase “use by right” shall mean that the local government’s review of the owner-occupied or multifamily residential use may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a “project” for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act. A local ordinance may provide that “use by right” does not exempt the use from design review. However, that design review shall not constitute a “project” for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code.

- 1 Use by right for all rental multifamily residential housing shall be
- 2 provided in accordance with subdivision (f) of Section 65589.5.

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